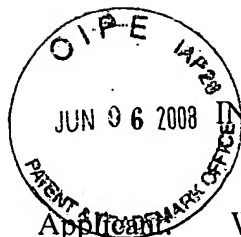


*JPW*



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Weiner  
Serial No.: 10/678,316  
Filing Date: October 2, 2003  
Title: Imbedded Vinyl Flooring Product

Examiner: Ruddock  
Group A.U.: 1794

Mail Stop – Patent Application  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, Virginia 22313-1450

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT**

Dear Sir:

This petition is filed under 37 CFR 1.181.

The applicant has received the enclosed Notice of Abandonment dated May 28, 2008 (see Exhibit A). Exhibit A states that no reply has been received subject to the Office Action mailed on August 20, 2007.

Enclosed under Exhibit B is a printout from the PAIR website showing that on September 4, 2007 a miscellaneous incoming letter and a Terminal Disclaimer filed were received by the Patent Office. In opening of the “miscellaneous incoming letter” (as Exhibit C) one will see that that “miscellaneous incoming letter” was a response to the Office Action and included the Terminal Disclaimer (Exhibit D) was provided.

As can be seen with reference to Exhibit E of September 14, 2007 as shown in the PAIR printout (Exhibit B), a Terminal Disclaimer approval form used by the PTO indicates the Terminal Disclaimer received September was approved.

In reviewing the Office Action of August 20, 2008, the only outstanding issue was a proper Terminal Disclaimer being filed (see the Office Action summary, Box # 5 indicating that claims 1-10 are allowed “when proper TD is filed”). In reviewing the detailed action, this was the only remaining requirement of the Applicant from that Office Action.

Accordingly, as provided by the rules of the Patent Office, this petition is provided to withdraw the holding of abandonment based on the evidence that a reply was timely mailed and filed and received by the Patent Office. Since the Patent Office has the paperwork as was originally submitted, the applicant is not including copies of papers as filed, but would be more than happy to do so if that would be deemed helpful. Since the Patent Office clearly received the documents as evidenced by PAIR and the documents contained therein, there is not believed to be a need to file the duplicate documents at this time.

Accordingly, withdrawal of the Holding of Abandonment is respectfully requested and issuance of a Notice of Allowance and Issue Fee due statement is respectfully requested for claims 1-10. No additional fees are believed to be due with this filing, but deposit account number 133403 may be charged for any fees outstanding in this application if so determined.

Respectfully submitted,

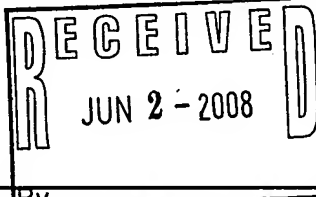
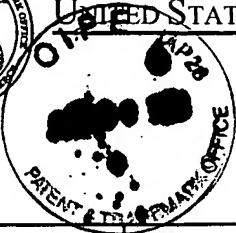
Date: JUNE 4, 2008

By: 

Stephen J. Stark  
Miller & Martin PLLC  
Suite 1000, Volunteer Building  
832 Georgia Avenue  
Chattanooga, Tennessee 37402-2289  
(423) 756.6600



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APPLICATION NO.	FILING DATE	By FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/678,316

10/02/2003

Robert S. Weiner

04615-0100 32,207A

2582

3490 7590 05/28/2008  
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EXAMINER
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RUDDOCK, ULA CORINNA

ART UNIT	PAPER NUMBER
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1794

MAIL DATE	DELIVERY MODE
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05/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



# **Notice of Abandonment**

Application No.

10/678,316

Examiner

Ula C. Ruddock

Applicant(s)

WEINER ET AL.

Art Unit

1794

**- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 20 August 2007.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

Abandonment confirmed by Marie K. Bataille Chery (Chugach)

/Ula C Ruddock/  
Primary Examiner, Art Unit 1794

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



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10/678,316

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This application is officially maintained in electronic form. To View: Click th  
Download and Print: Check the desired document(s) and click PDF.

## Available Documents

Mail Room Date	Document Code	Document Description	Document Ca
05-28-2008	ABN	Abandonment	PROSECU
09-14-2007	DISQ	Terminal Disclaimer	PROSECU
09-04-2007	LET.	Approval form used within the USPTO	PROSECU
09-04-2007	DIST	Miscellaneous Incoming Letter	PROSECU
08-20-2007	CTEQ	Terminal Disclaimer Filed	PROSECU
05-10-2007	AP.B	Ex Parte Quayle Action	PROSECU
05-04-2007	CTMS	Appeal Brief Filed	PROSECU
03-16-2007	AP.B	Miscellaneous Action with SSP	PROSECU
12-15-2006	CTNF	Appeal Brief Filed	PROSECU
12-15-2006	892	Non-Final Rejection	PROSECU
12-15-2006	SRFW	List of references cited by examiner	PRIOR AI
12-10-2006	SRNT	Search information including classification, databases and other search related notes	PROSECU
09-25-2006	AP.B	Examiner's search strategy and results	PROSECU
08-23-2006	CTMS	Appeal Brief Filed	PROSECU
07-17-2006	AP.B	Miscellaneous Action with SSP	PROSECU
07-17-2006	ARTIFACT	Appeal Brief Filed	PROSECU
06-29-2006	CTAV	Artifact sheet indicating an item has been filed which cannot be scanned	PROSECU
06-29-2006	ANE.I	Advisory Action (PTOL-303) Amendment After Final or under 37CFR 1.312, initialed by the examiner.	PROSECU
06-16-2006	DISQ	Terminal Disclaimer Approval form used	PROSECU

06-05-2006	AP/A	<u>within the USPTO</u> <u>Amendment/Argument</u> <u>after Notice of Appeal</u> <u>Applicant</u>	PROSECU*
06-05-2006	REM	<u>Arguments/Remarks</u> <u>Made in an</u> <u>Amendment</u>	PROSECU*
06-05-2006	XT/	<u>Extension of Time</u>	PROSECU*
06-05-2006	DIST	<u>Terminal Disclaimer</u> <u>Filed</u>	PROSECU*
06-05-2006	WFEE	<u>Fee Worksheet (PTO-</u> <u>06)</u>	PROSECU*
12-08-2005	CTFR	<u>Final Rejection</u>	PROSECU*
12-08-2005	SRFW	<u>Search information</u> <u>including</u> <u>classification,</u> <u>databases and other</u> <u>search related notes</u>	PROSECU*
09-23-2005	A...	<u>Amendment - After</u> <u>Non-Final Rejection</u> <u>Applicant</u>	PROSECU*
09-23-2005	REM	<u>Arguments/Remarks</u> <u>Made in an</u> <u>Amendment</u>	PROSECU*
09-23-2005	WFEE	<u>Fee Worksheet (PTO-</u> <u>06)</u>	PROSECU*
06-29-2005	CTNF	<u>Non-Final Rejection</u>	PROSECU*
06-29-2005	892	<u>List of references cited</u> <u>by examiner</u>	PRIOR AI
06-29-2005	BIB	<u>Bibliographic Data</u> <u>Sheet</u>	PROSECU*
06-29-2005	SRFW	<u>Search information</u> <u>including</u> <u>classification,</u> <u>databases and other</u> <u>search related notes</u>	PROSECU*
06-23-2005	SRNT	<u>Examiner's search</u> <u>strategy and results</u>	PROSECU*
03-22-2004	ABST	<u>Abstract</u>	PROSECU*
03-22-2004	XT/	<u>Extension of Time</u>	PROSECU*
03-09-2004	PEFN	<u>Pre-Exam Formalities</u> <u>Notice</u>	PROSECU*
01-28-2004	DRW	<u>Drawings-only black</u> <u>and white line</u> <u>drawings</u>	PROSECU*
12-30-2003	PEFN	<u>Pre-Exam Formalities</u> <u>Notice</u>	PROSECU*
10-02-2003	TRNA	<u>Transmittal of New</u> <u>Application</u>	PROSECU*
10-02-2003	SPEC	<u>Specification</u>	PROSECU*
10-02-2003	CLM	<u>Claims</u>	PROSECU*
10-02-2003	DRW	<u>Drawings-only black</u> <u>and white line</u> <u>drawings</u>	PROSECU*
10-02-2003	OATH	<u>Oath or Declaration</u> <u>filed</u>	PROSECU*
10-02-2003	WFEE	<u>Fee Worksheet (PTO-</u> <u>06)</u>	PROSECU*

10-02-2003

WFEE

Fee Worksheet (PTO-06)

PROSECUT

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<b>Application Number</b> 	<b>Application/Control No.</b> 10/678,316	<b>Applicant(s)/Patent under Reexamination</b> WEINER ET AL.	
<b>Document Code - DISQ</b>		<b>Internal Document – DO NOT MAIL</b>	

<b>TERMINAL DISCLAIMER</b>	<input checked="" type="checkbox"/> <b>APPROVED</b>	<input type="checkbox"/> <b>DISAPPROVED</b>
Date Filed : 9/4/07	This patent is subject to a Terminal Disclaimer	

<b>Approved/Disapproved by:</b>
debbie